G. R. S. IX-5]

Previous references. (1895-96)

191 .

(L.R)

108-95

File No. ~~86-95~~

Serial Nos. 1-10

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1—10

in ~~Part~~ B for Sept 98

SUBJECT.

Appeal of Todda Ramanna re. his claim to recover some dues from Shanmana for failing to deliver over the Shanbhog charge of Kemplapura Hunsur taluk

W D 1250—GPB—30,000-28-1-19

Before the Government of ~~His Highness the Maharaja of~~ Mysore.

Appeal No. 177 of 1894-95

Appellant. Vs. Respondent.

Dodda Ramanna represented by Mr. D. Venkataramayya

V Shamanna.

Notices served on Respt's house on 9th July

16. 7. 95.

~~Decision.~~

Appt by Mr. Venkatramayya
Respt not present-
adjd to 8th August - Fresh notices to issue.

B.D. BR

Notices issued
S.V. 17/7

Neither the appellant nor his Advocate is present - the appeal is dismissed for default.

27/8

Appellant-served.
Respondent-not-served.

8. 8. 95.
adjd to 27th Augt
Fresh notice to Respt
B.D. BR 8x

Respondent-Served.

27. 8. 95.
Appellant- not present -
Respondent- in person

Petition No 1300 of 1895-96.

Petitioner
Dodda Ramanna

Counter Petitioner
Shamanna.

List of English papers.

(1) Petition No 1300 dated 23.9.95.
(2) Endorsement dated 3.9.95.
(3) Appeal petition dated 29.5.95.
(4) Proceedings of the Dy Commrs Court & judgment
(5) Mysore Munsiffs order in O.S. No 807 of 1893 on the file of his Court.

Posted 15th Sept
Sd/- 1st Cr
25/8/96

Respondent
Appellant present
Order Rule 43. para 4
Appeal both restored.
Appeal is restored
mutual reserved
6/2/96

56

does not the
order of 15th Aug 91
debit Rs 11 from
maintg a
suit for damages
& the suit for pecy
damages based on an alleged
contr contg with Govt

Leaving the question of 40 ~~etc~~
which arises from a contract
between the bankers, the others
claim rise for damages
for being kept out of office
is certainly one "in respect
of any injury caused by ~~xxxx~~
exclusion of the bearer from
office of a village Officer".
Supposing it is adjudged in
the P.O.'s favour I want
to know what are the means
a Rev Officer has at his
disposal for the recovery
of the money. Is it by ~~xxxx~~
the P.O. — I mean in
what — how is the order
to be executed? I shall
be glad to have all the
references on this point, as
also the news of the Society
as soon as possible. early

Yours
26/8/97

27/8/97

Memo

1) Sec^n 193. of the Land Rev Reg^n seems to indicate the procedure to be followed in this case of the damages are adjudged to the appellant. The damages consist of the potpi for the Zear Khara + the costs of getting the Dy Comm^r's order cancelled + interest on the first item (Manuscript's Judgment)

The potpi seems to come under "emoluments" payable or levable under this Act Reg^n or under any Act "&c -

"Costs" are specifically mentioned in the Sec^n but the Costs, if at all levable Ld have been adjudged to the appellant in his original appeal & Govt under the Council Rules of 189. no fee is awardable & a Lawyer appearing before the Council. The result is that it is doubtful if the "Costs" referred to by the appella Are levable or payable under the Land Rev Reg^n or other law.

It may perhaps be argued that the character of potpi, costs + interest are merged in the expression of "damages" and that an analysis is not admissible In this case, para 2 of Rule XLIII rendering Civil Pro. Code applicable, Govt suppose the procedure.

under Rule XLIII para (2), the provisions of the Civil Procedure Code are made applicable, in, as far as possible, all matters not provided for by the Code or Rules.

* Granting that the above rule is valid, there seems no reason why Chap XIX (Execution of decrees) and in particular Secn 254 providing for the execution of a money decree should not apply to the enforcement of a money decree under Secn 221(a) of the Rev Code.

E The following are some considerations why the rule has to be applied guardedly

(1) In † Secn 96 of the Rev Code, the legislature has expressly declared the applicability of chaps V, VII, VIII, XXXVII & XLVIII of the C.P.C to be applicable to suits between Superior & inferior holders. † If the legislature had meant that the provisions of the C.P.C Shd be applicable in other matters it would have been equally explicit

(2) The elaborate procedure prescribed in chaps XII & XI for the recovery Land revenue & other items payable to Govt & for the procedure of Rev Officers including evictions of persons in wrongful possession of land

* For there have been cases in which the Bombay High Court have declared certain rules made by the Bombay Govt under the Code to be ultra vires (Page 322 of Satthe's Edn of the Bombay Rev Code. Rule 101)

† Another section in which specific reference to the applicability of portions of the Civil Proc Code is made is Secn 200.

(Sec^{n} 209) shows
did not intend to leave such
matters to Govt under Sec^{n} 233
Hence the rule is not "consistent
with the Rep^{n}"

2) In ~~a matter like the precedi~~ Other connection
it is interesting to note the
rulings under the Bombay
Law corresponding to Sec^{n} 193 quoted above.
Under Sec^{n} 189 of the Bombay Rev
Code (corresponding to Sec^{n} 193 of
Land Rev Rep^{n}) it has been
ruled that amounts payable
by Inamdars & Watandars
(hereditary village officers) on
account of their remuneration
if not duly paid, are recoverable
as arrears of Land revenue
(G.R. Sathe's Ed^{n} Page 191)
It is thus clear that Sec^{n} 193
of the Rep^{n} cannot be held to
apply only to moneys payable
to Govt but also to moneys
adjudged, by Govt, as payable to others

3) Although the Madras Law is
different from the Bombay (or Mysore)
Law in many respects, a similar
but more extensive question as
to the sufficiency of means to enforce
the Revenue officers' decrees under
the

(Madras) Rep - Vol ... (... L
(See Mr. Cubbon's) & Leading cases in Land Law By Ramamurthy (Page 176)
& the Commissioner's circular 1835
& Sec 221(a) of the Land Rev Regs)
was discussed by the Madras Govt
& the Board of Revenue in 1874
In the light of their discussion, it
appears that a decree for possession
of service Inam Land (as between
two hereditary & as specified in
the 1st para of Sec 221(a)) is not
capable of being executed under
the Mysore Land Rev Code as it stands
unless the service Inam Lands
are held to be "lands set apart
for special purposes" & Sec 5 & 209
of the Regs are considered
applicable.
This question however does not
arise in the present case.
& so far as I am aware such a
case does not seem to have
~~been decided~~ arisen for decision.

4) Finally I venture to submit
with due deference that in this case
it is doubtful if the appellant's
exclusion from office arose solely
from the respondent's obstruction
Rightly or wrongly, the Dy Comm.
as the officer responsible for the
village administration, & between the contending parties
the appellant was disqualified
from discharging the duties

& Moreover such a decree
would be in direct conflict
with the last clause of Rule
XXVIII of the Pohpi Rules
"The land will therefore
remain in the possession
of the Sharers who may
at present hold it"

of the office. The refs relating to this case (out of which the claim for damages has arisen) are put up.

Subd to Secretary
(with refs to the 2nd counsellor's
order S.26/8/97) MM 3/9/97.

P.S. I forgot to state that the question raised in this case does (so far as I have investigated by referring to past Govt Records &c) not appear to have arisen for decision MM 3/9/97

The question is how a Revenue Court is to give effect to a decree passed by it under Section 22, (a), of the Revenue Regulations. There is no express provision in that Regulation. Section 233 (n) gives the Govt Power to prescribe matters connected with the enforcement of the Regulations, or in cases not expressly provided for therein. The execution of a decree passed under the Regulations is a matter which

connected with the enforce-
-ment of the Regulation.
It is however a case not
evidently provided for
in the Regulation - Court
may therefore competent
to frame rules regarding it.
Rule XXIII (2) has accord-
-ingly been framed directing
that in matters not provided
for by the Regulation the
provisions of the Code of
Civil Procedure shall be
followed as far as possible.
In my humble opinion,
the decrees of Revenue
Courts are enforceable
in the same manner as
decrees passed by Civil
Courts - Certain claims
have been excluded from the
jurisdiction of Civil
Courts and ~~the~~ such
cognizable exclusively
by Revenue Courts - The
power to adjudicate
implies also the power
to give effect to such
adjudication - Hence the
presumption of power to
frame rules in such matter.
To hold that a Revenue Court
and no other, can decree a claim
and that nevertheless it has no
power to enforce it is practically
to hold that ~~such~~ that claim

is not at all ascertainable. This clearly could have been the intention of the framers of the Revenue Regulation.

C.

8-9-97

Lt. Col. Bm.
8.9.97.

In the present statement the B/S expressly states that the exclusion from Area resulted in no injury to the BB during Khara and the following year as in both these years the BB had received his share of the Bhiji. The BB has not been called upon to make his statement on this point. This seems to be a material allegation and an issue should have been framed upon that point. If

as is alleged the Pursuer has been paid the claim for an additional payment of £15 to compensate for the loss falls to the ground - The other damages consist chiefly of the cost to which the Pursuer was put in bringing and conducting an appeal before Govt. It has not been the practice of Govt to award costs & fees to Tribunals are not expressly included - Under these circs it seems extremely doubtful whether damages can be awarded Naturally Tribunals a party to such costs. But this point can be considered when the issue alone remitted out will be enquired into & a finding submitted by them. The Pursuer also pleads that his promise to pay £15 for labour when the charge in the Act was given over which was intended by him to cover the share of the Pursuer due to the appellant. The Respt does not repeat the words used by the Pursuer that this sum of £15 was to be an additional payment - Under all the circumstances of the case it does not appear that the Lord Ordinary was wrong in disallowing the claim -

These papers will be sent to the Dy Comr to return them with his finding of the issue alone remitted.

70 Aberdeen Parliament Sqrs
13.3.98

Lord Pres
Lord Kyllachy
Lord Trayner
Lord Moncreiff
Lord Ardwall

Received 16-3-98

Recvd 2 & 2nd Committee
with ref to the 3rd Committee's
remarks against para 2 of
the ~~draft~~ order

My 17/3/98

Recd 7.30 Pm
17.3.98.

Memo. No. 2 did not
mean that we
would have received
communicated
Recd
22.3.98

Draft 23/3/98

Mr Temple
24/3/98

Draft Proof & further
Proof
Blm.
26/3

The Secretary submits a
Statement of the plaintiff
admitting that he
received his share of the
profits for the years ~~Khara~~
& Vikruti & Khara.

My 20/6/98

~~L.R. 86 95-1~~

Gen. Serial No. 32.]

1895-(1)

No. 3209

Name of Petitioner. Dodda Kaumma - Dr of Lekaraman Principal by Mr. D. Venkatarama Advocate.

Village. Periapatna

Taluk. Hunsur

District. Mysore

Date of Arzi. 29-5-95

Date of Receipt. 29-5-95

Date of Disposal.

No. of Enclosures.

Stamp duffi
Out of time by 25 days
Explanation for delay given below the appeal petition.

Subt to the Rev. Councillor.
It is a question for consideration whether the appeal may not be rejected as falling under cl. 1 para I of the add Rules — "claims to emoluments attached to hereditary offices."

76.

ABSTRACT.

Appeals against the decision of the Dy. Comr. Mysore, in Rev. Regd Suit No. 8 of 93-94 regarding the recovery of certain amount from the defendant on account of his failure to make over charge of the Shanbhogship of Kanipedapura - Hunsur Taluk.

The grounds of appeal and the orders appealed against are in English.

4/6.

Yes subject to decision.

C C
Perhaps
cover need
10.6.95

Rejected
10/6/95

Stamped
Records rec'd 5/7
Costs & 16-July 12/6
Notices to issue 5/7

Issued 5/7

no 3209 Evd. 3 0 3 6-9-95

(1)

MYSORE DEWAN'S OFFICE
PETITION DEPARTMENT.
REG'D. No. 3209 R
DATE 29-5-95

W. Venkataramaiya
29-5-95
Bangalore

Petition
Mysore
29/5/95

To

Two Rs. stamps

The Government of Mysore
Bangalore

R.S. 177 of 1894-95 Revenue Petition no of 1894-95

Petitioner
Dodda Ramanna
Son of Sitaramaya
residing at Periapatna
Hunsur Taluk

C. Petitioner
vs
Shamanna
Son of Giriapa
residing at
Kattaimaladawadi
Kirjaji Hobly
Hunsur Taluk

The Petitioner above named begs to appeal against the decision of the Dy Comr., Mysore, in Rev Regular Suit No. 8/93-94 for the following among other reasons:—

1. That the Dy Comr erred in giving no relief to the Petitioner.

2. That the Civil Court returned the Petn plaint on the ground that they had no jurisdiction.

VI That the Deputy Commissioner erred in not giving effect to the agreement admitted by the Counter-Petitioner.

VII That the Dy Comr failed to take into consideration the previous correspondence on the subject and the final orders of Government appointing the Petitioner

VIII That the Order of the Dy Comr is illegal and is therefore liable to be set aside.

Bangalore
11th April 1895

D Venkatramanayya
Advr for Petr

That this appeal memo which was drawn up on the 11th of April was, owing to a doubtful impression as to the recess of the Council at the time it was drawn, left unfiled. The mistake was found out this morning when the papers of Civil Cases were looked after. The Civil Courts closed on the 11th of April and then re-opened today. Hence the mistake. The appellant prays that the delay in filing the petition may therefore be excused

D Venkatramanayya

Ret 1813 ✓ (2) 1 Enclosure 17/6/95

MYSORE DEWAN'S OFFICE,

PETITION DEPARTMENT.

LR 108-95-2

2R 8-95-2

OFFICIAL MEMORANDUM.

The accompanying Appeal Petition Registered No. 3209 dated 29 "May 189[5] received at the Dewan's Office from Dod Ramanna of Periapatna, Hunsur Taluk appealing against the Dy. Comm's decision in Rev: Regular Suit No: 8 of 1893-94 regarding the recovery of Petitioner's claim of Rs 2[0]3 from Shamanna for failure to deliver over the Shanbh[ogue] Charge of Periapatna Kampalapa[tna] is forwarded, together with its one enclosure, to the Deputy Commissioner of the Mysore District for submission of the entire proceedings connected with the case.

2. The petition with its enclosure should be returned.

By order,

Draft 13/6

Rev: Chief Secretary

BANGALORE, 10-6-1895

17. Reminder 13/6 SKR 12/6

M.G.C.P.B.—25-4-95—1,000

1895. (5)

From

The Deputy Commissioner,
of Mysore District.

OFFICE OF THE
1825 L
1 JUL 1895
Pet 768
DEWAN OF MYSORE

To Revenue Government

The ~~Chief~~ Secretary to the ~~Dewan~~ of Mysore.

100-95-3
LR-86-95

Dated 27th June 1895.
Despatched
Received

Enclosures No. 2 files

No. 1514

Submitting the entire record of revenue suit No. 8 of 1893-94, anent the Shanbhogy of Kampalapur in the Hunsur Taluk

Petn
1-7-95
Do the Govt. Pleader appear and defend for the Govt.
advised by the Committee
20 pts
7/7

No. 1514

Enclosures No. 2 Files

DEPUTY COMMISSIONER'S OFFICE,
MYSORE DISTRICT,

Dated 27th June 1895.

From

The Deputy Commissioner,
of Mysore District.

To

Revenue Government
The ~~Chief~~ Secretary to the ~~Dewan~~ of Mysore.

SIR.

As requested in your official memorandum No: 1813 Pet. dated the 29th ultimo, I have the honor to submit herewith the entire record of Revenue Suit No: 8 of 1893-94 on the file of this court regarding the Shanbhogy of Kanpalapura in the Hunsur Taluk

2. The appeal petition and its enclosure are herewith transmitted.

I have the honor to be,
Sir,
Your most obedient Servant,

Deputy Commissioner
of Mysore District

Comps. No

Vdy

(4)

నంబరు
3209
A.S.177

20-వ పుట
6-9-96

అసిలు ప్రతాంశములు

[illegible]

[illegible]

[illegible]

No 1813 of 95-96

Rec'd 9-10-95

LR 86-95-5

Please say mos- because of Petn no 1813 and 3209 of 94-95. ~~[illegible]~~ shall. Please put up the papers relating to the case.

10/10

Appr for review — In time Stamp sufficient — Subt for order.

When date of adjd hearing is not fixed & announced in Council notices are issued to both parties. In this case the date was given in Council before the next case was called and no notice was given to the Appellants' Advocate who was then present.

The Advocate says he believed that a notice would be sent to him & so did not enter the date in his diary then & there —

Subt for orders

11/10

15-10-95

Read 18/10

Post this matter for in Council on 22nd inst

22/10/95.

Put up all

22/10/95

1894-95

No. 1300

Name of Petitioner, Dodda Ramanna Advocate Venkatramiah

Village, Periyapatna

Taluk, Hunsur

District, Mysore

Date of Arzi, 23-9-95

Date of Receipt, 7-10-95

Date of Disposal,

No. of Enclosure, one.

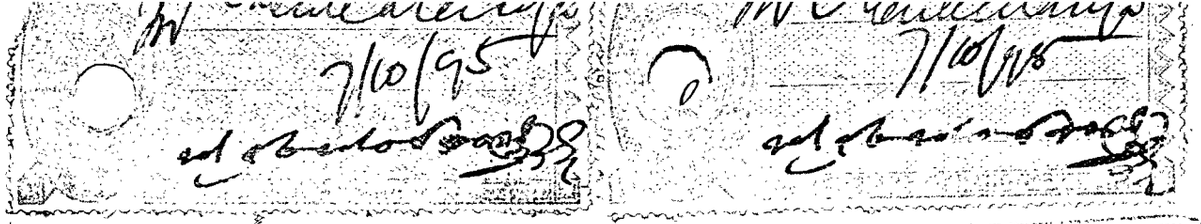
ABSTRACT.

States that his appeal No 177 of 1894-95 was dismissed for default on 27/8/95 that no written notice was given to Petr or his Advocate that the date seems to have been fixed while this Advocate was in court; that the Advocate thought that written notices would be served as usual & that the Petr was not present on the date of hearing when it was adjourned to 27/8/95.

The Petitioners Advocate prays

prays that as there was a bona fide mistake of fact his absence may be excused and that either he or the Petr may be heard and the appeal be disposed of on the merits of the case.

Br. 8/10.



1360

Presented by Sri
Venkatramayya's clerk
7-10-95.
Rejected

Two rupees stamps a/b

MYSORE DEWAN'S OFFICE.
PETITION DEPARTMENT.
REG'D. N. 1360/R
DATE 7/10/95

To the Revenue Secretary to the
Govt of Mysore
Bangalore

Rev: Appeal petition no 177 of 1894-95

Chpt & Petr Pet & Respondent

Dodda Ramanna
Son of Seetaramayya
residing at Periyapatna
Hunsur Taluk.

Shamannah.

The Petr above named begs to state as follows:—

1. That his appeal petition was dismissed for default on the 27th of Augt 95.

2. That no written notice of the hearing was given to the Petr or his advocate.

3. That the date seems to have been fixed while the advocate was present in Court.

4. That the advocate thought that as usual written notices would be served and that the case was not therefore entered in his diary.

5. That the Petr was not present on the date of hearing when it was adjourned to the 27th of Augt 95.

6. That as there was a bonafide mistake

mistake of fact, the Petitioner's advocate prays that his absence on the occasion may be excused and that either he or the Petr may be heard and the appeal be disposed of on the merits.

Bangalore
23rd Sept 95

D Venkatramana Jr
Adv. for Petr

Gen. 31.] Urgent

189 (6)

LR 108-95-6

~~LR 86-95-6~~

From

To The Deputy Commr
Mysore District

Dated
Despatched } 2nd Novr 95
Received

General No. Pet ✓
No. 895

Enclosure No.

Has the honor to request that the records returned with this office No Pet 5-35 dated 3rd September 1895, may be retransmitted to this office before the 10th Instant; as the ~~Revision~~ application ~~of~~ for readmission of the appeal preferred by Dodda Ramanna stands posted to 14th Instant.

By order

Draft 2-11-95

Revenue Secretary

(General Serial No. 31.)

REVENUE OFFICE
Gl. No. 3822
Pet. No. 330
1 NOV. 95
1895
MAIN'S OFFICE

(7)

LR 108-95-7

~~LR 8-95~~

Sl 7

From The Dy Commissioner of the Mysore District

To The Revenue Secretary to the Government of Mysore

Dated 6th

Despatched 7th November 895

Received

Enclosures Number. Records

General No. 565

No.

Re transmitting the record in Regular Revenue suit no 8 of 1893-94 on the file of this Court, Dodda Ramanna ~~of~~ Shamanna.

Rdr
11/11/95

No. 565.

Dy Commissioners Office
Mupone District

Dated Mupone 6th November 1895

From.

The Dy Commissioner
of the Mupone District

To

The Revenue Secretary to the
Government of Mupone

Sir

As required in your docket no $\frac{Pet}{895}$ dated the 2d november 1895 I have the honor to retransmit the record returned with your docket no $\frac{Pet}{535}$ dated the 3d September 1895, relating to Regular Revenue Suits no 8 of 1893-94 on the file of this Court, Dodda Ramanna ~~Vs~~ Shamanna.

I have the honor to be
Sir
your most obedient Servant

Dy Commissioner
of the Mupone District

Compd.
HLH.

Proceedings of the Govt of Mysore

(8)

Read:-

LR 108-95-8

LR 86-95

(1) Petition Regd No. 1300 dated 23/3/95 presented by Dodramanna of Periyapatna, Hunsur Taluk, praying for readmission of his appeal dismissed for default of appearance before the Council on the date of hearing against the decree of the Dy Comrs Mysore District in Revenue Regd suit No. 80 of 1893-94 on the file of his court, dismissing the Plaintiffs suit for recovery of damages from the Deft Shamanna for being kept out of the office of the Shanbhoge of Kampalapura in the Hunsur Taluk.

Pltff Dodramanna — Deft Shamanna

(2) The records received with letter No. 56587-11-95 from the Deputy Comrs, Mysore District

P. 9469 dated 30/3/98 1228 Order thereon:-

In the written statement

Noted

the Deft. expressly pleads that the exclusion from office resulted in no injury to the Plff during Khara and the following year as in both these years the Plff had received his share of the Potige The Plff has not been called upon to make his statement on this point This seems to be a material allegation and an issue should have been framed upon that point. If as is alleged the Potige has been paid the claim for an additional payment of forty rupees to compensate for the loss falls to the ground. The other damages consist chiefly of the cost to which the Plff was put in filing and conducting an appeal before Govt. It has not been the practice of Govt to award costs and fees to Advocates are expressly excluded - Under these circumstances it seems extremely doubtful whether damages can be awarded separately to reimburse a party for such costs - But this point can be considered when the issue above

pointed

pointed will be enquired into and a finding submitted by Hon'ble the Dy Comm[r]

These papers will be sent to the Dy Comm[r] to return them with his finding of the issue above fixed.

To The Dy Comm[r], Mysore dist[t] with records.

Draft
Bln.
29/9/95
26/3.

A draft for approval

Mme
29/2/16

LR 108-95-9

REVENUE DEPARTMENT
No. 8999
JUN 10 1898
DEPUTY'S OFFICE

1897 - 98

LR 1672

From

The Deputy Commissioner

Mysore District.

LR 86-98

To

The Secretary to the Government of Mysore,
General and Revenue Departments.

To be reported for hearing
20/6/98

Dated
Despatched June 1898.
Received

Reported 6-5th September 1898.

Enclosures No. Statement
Honnavara records

General No. 1408

Submitting further report on the petition of Obdramanna of Periya patna, Hunsur Taluk.

Petition No 1
1076/98

Rajs putup

13/6/98

14/6/98

No. 1408

Enclosures No. Statements Honavere records.

OFFICE OF THE Dy. Commissioner
MYSORE DISTRICT,
Dated Mysore 7th June 1898

To

The Secretary to the Government of Mysore,
General and Revenue Departments.

SIR,

Adverting to Government Proceedings No. 9469 Pet. 1228 dated 30th March 1898, calling for further report on the petition of Dodramanna of Periya: patna, Hunsur Taluk, appealing against the decree passed in Regular Revenue Suit No. 8 of 1893-94, on the file of this court, dismissing his suit for recovery from the Defendant Shamanna of damages for being kept out of the office of Shan: bhagi of Kampalapura in the Hunsur Taluk, I have the honor to submit the accompanying statement given before me by the Plaintiff on the 4th Instant and in the presence of the Defend: ant. The Plaintiff admits having received his share of the Potigi at Rs. 42. 14. 0 for each of the years Vikruti (1890.91) and Khara (1891-92) in which the Defendant performed the duties of Shanbhog as also for Nandana (1892-93) in which he (Plaintiff) himself was in charge of

the

the Office.

2. The records of the case are herewith resubmitted.

I have the honor to be,

Sir,

Your most obt. servant

Deputy Commissioner

Mysore District.

MM

12-9-98

LR 108-95-10

Copy

Re Pol 19-98 & 10.9.98

Copy of the above is forwarded to the Deputy Commr, Mysore for information together with the records received with his letter No. 1408 & 7th June 1898.

By Order

Secretary

Draft
Bleu
28/9

+ 23-5-1898
12-9-98